

NEBRASKA ADMINISTRATIVE CODE

TITLE 219 - DEPARTMENT OF LABOR

CHAPTER 8 - LEAVE OF ABSENCE

001. This chapter is adopted pursuant to Neb. Rev. Stat. ' 48-602, ' 48-607, ' 48-627 and ' 48-628(l).
002. A. The Department will consider a leave of absence to mean an absence from work when: (i) mutually and voluntarily agreed to by the employer and employee; (ii) mutually and voluntarily agreed to between the employer and the employee's bargaining agent; or (iii) to which the employee is entitled to as a matter of state or federal law.
- B. National Guard and Reserve members called to active duty will be considered on a leave of absence if: (i) the claimant provides adequate notice of active duty call-up to his or her employer, and (ii) he or she makes application to return to work within thirty days after released from service or training.
003. A claimant shall be considered to not have severed the employment relationship upon the commencement of a leave of absence as established by the conditions in ' 002.
004. A. A claimant meeting the conditions of a leave of absence in ' 002 who elects not to return to work upon the expiration of the leave of absence shall be considered to have voluntarily left the employment at the expiration of the leave.
- B. A claimant meeting the conditions of leave of absence in ' 002.B who elects not to return to work upon the expiration of the leave of absence shall: (i) be considered to have voluntarily left at the time called to active duty if he or she is filing a claim for unemployment benefits within the thirty-day return to work period, or (ii) be considered to have voluntarily left on the end date of the thirty-day period following release from active duty if he or she is filing

a claim for unemployment benefits after the thirty-day period has expired.

- 005. A claimant who finds that his or her employer will not allow a return to the agreed upon employment at the end of the leave of absence shall be considered to have been discharged at the expiration of the leave.
- 006. A claimant who leaves work for a definite period of time but does not seek and receive a reasonable assurance from the employer that the agreed upon employment will be available when that period of time expires shall be considered to have severed and voluntarily left the employment at the time of leaving work.
- 007. Intervening acts of the claimant or employer may be deemed to have terminated the leave of absence prior to its scheduled expiration.
- 008. It shall be presumed that an indefinite or temporary disciplinary suspension by the employer is not a mutually and voluntarily agreed to absence from work. For the purpose of determining eligibility for unemployment benefits, such a claimant is presumed to have been discharged by the employer at the time of the suspension.
- 009. If there is a finding that the employee is on a leave of absence, no charging determination shall be made as to an employee's employment with the employer from which he or she is on a leave of absence until such time as an actual separation from such employment occurs. The subsequent chargeability determination shall be applied to any current or future claim for benefits where the base period includes the period of employment during which the leave of absence occurred.